

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATION

Regulation 1803.5 LONG-TERM LEASES OF MOTOR VEHICLES

Reference: Section 7205.1, Revenue and Taxation Code.

(a) PLACE OF USE.

(1) With respect to the long-term lease of a new or used motor vehicle, the place of use for the reporting and transmittal of the local use tax shall be determined as follows.

(A) If the lessor is a California new motor vehicle dealer or leasing company, the place of use of the leased new or used vehicle shall be deemed to be the participating jurisdiction in which is located the lessor's place of business at which the lease is negotiated (as determined under Regulation 1802).

(B) If a lessor who is not a California new motor vehicle dealer or leasing company purchases the vehicle from a new motor vehicle dealer or leasing company, the place of use of the leased vehicle shall be deemed to be the participating jurisdiction in which is located the place of business of the new motor vehicle dealer or leasing company from which the lessor purchased the vehicle.

(C) If a lessor who is not a California new motor vehicle dealer or leasing company purchases a new motor vehicle from a person other than a new motor vehicle dealer, or a used motor vehicle from any source, the place of use of the leased vehicle shall continue to be the participating jurisdiction in which the lessee resides and shall be distributed to that jurisdiction through the countywide pool of the county in which the jurisdiction is located.

(2) The place of use as determined by subdivisions (a)(1)(A) and (a)(1)(B) shall be the place of use for the duration of the lease contract, notwithstanding the fact that the lessor may sell the vehicle and assign the lease contract to a third party or the lessee may change his or her place of residence. The fact that the lessor may sell the vehicle and assign the lease contract to a third party is also not relevant to the determination of the place of use under subdivision (a)(1)(C).

(b) DEFINITIONS.

(1) As used in this regulation, the term "motor vehicle" means a passenger vehicle (designed to carry no more than 10 persons, including the driver), such as an automobile, minivan, or sport-utility vehicle. The term also includes light-duty pickup trucks rated less than one (1) ton. The term does not include a house car.

(2) Notwithstanding any other provision, as used in this regulation the term "long-term lease" means the lease of a motor vehicle for a term exceeding four months.

(3) Notwithstanding any other provision, as used in this regulation the term "lessor" means a person who, for a term exceeding four months, leases or offers for lease, negotiates or attempts to negotiate a lease, or induce any person to lease a motor vehicle, and who receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from the lessee of that vehicle.

(4) As used in this regulation, the term "dealer" means a person who, as defined under Vehicle Code section 285, is engaged wholly or in part in the business of selling motor vehicles or buying or taking in trade, motor vehicles for the purpose of resale, selling, or offering for sale, or consigned to be sold, or otherwise dealing in motor vehicles, whether or not such vehicles are owned by such person. The term "dealer" does not include a person who is solely engaged in the business of leasing.

(5) As used in this regulation, the term "leasing company" is determined on a location-by-location basis. "Leasing company" means a location of a motor vehicle dealer who originates lease contracts with lessees and does not sell or assign such contracts, provided the annual lease receipts from leases of motor vehicles originated at that location are equal to or greater than \$15 million, calculated for the previous calendar year. Once a location is a

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leasing company for purposes of this regulation, it remains a leasing company unless and until such status is expressly revoked in writing by the Board.

(6) As used in this regulation, the term "new motor vehicle dealer" means a dealer as defined in subdivision (b)(4) who acquires for resale or lease new and unregistered motor vehicles from manufacturers or distributors of such motor vehicles.

(7) The provisions of subdivision (a) do not apply to leases of motor vehicles that are considered mobile transportation equipment (MTE) under Regulation 1661, except for pickup trucks rated less than one (1) ton. Although pickup trucks are still considered MTE, the local use tax revenues derived from qualifying leases of pickup trucks rated less than one (1) ton shall be reported pursuant to the terms of subdivision (a).

(8) The "place of business" shall be determined under Regulation 1802.

(c) If the lessor is located out of state and purchases the vehicle from a source other than one listed in subdivision (a)(1), the place of use of the vehicle shall remain the residence of the lessee, and the use tax revenue derived from such lease shall be distributed to that place through the countywide pool of the county in which the lessee resides.

(d) The rules regarding local use tax distribution set forth in subdivision (a)(1) shall be applied each time a motor vehicle is leased for a long term, as defined in this regulation. As a result, when a lease is terminated and the vehicle is acquired by a new lessee, the local use tax revenue derived from that transaction shall be distributed to the participating jurisdiction entitled thereto under the facts and circumstances of that lease. Where, however, the lease is structured as a series of short-term leases but is in fact a long-term lease, as shown by the course of performance of the parties (for example, same lessor, same lessee, same lease terms), the local use tax revenues derived therefrom shall be distributed to the same participating jurisdiction throughout the duration of the transaction. For example, government agencies frequently structure their long-term leases as a series of one-year leases due to funding restrictions. In that case, the agency shall be treated as bound for the full term notwithstanding any right it may have to terminate the contract in the event that sufficient funds are not appropriated to pay amounts due under the contract.

(e) **OPERATIVE DATES.** The provisions of this regulation applicable to leases by and purchases for lease from a California new motor vehicle dealer shall apply to lease transactions entered into on or after January 1, 1996. The provisions of this regulation applicable to leases by and purchases for lease from a leasing company shall apply to lease transactions entered into on or after January 1, 1999.

History: Adopted on March 26, 2003, effective July 26, 2003.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.